Ontario

A Guide for Joint Health and Safety Committees and Representatives in the Workplace

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A Guide for Joint Health and Safety Committees and Representatives in the Workplace

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Foreword

This Guide has been prepared to assist employers, workers, constructors, and others who may have duties respecting joint health and safety committees or health and safety representatives under the Occupational Health and Safety (OHS) Act. *It should not be taken to be a statement of the law or what is necessary to comply with the law. A person with legal duties may or may not agree with this Guide and there is no legal requirement to follow it. It is for each such person to decide what is necessary to comply with the* OHS Act.

A person who needs assistance in determining what constitutes compliance should consult with his or her legal advisor. Ministry inspectors will assess workplace situations against the relevant provisions in the OHS Act *but they do not enforce this Guide, although they may refer to it in determining whether the law has been complied with.*

Introduction

Ontario's *Occupational Health and Safety Act* (the *Act*) is built upon the principle that employees and employers must act together to ensure a healthy and safe workplace environment.

An important way in which this goal may be furthered is through the work of joint health and safety committees and health and safety representatives.

This guide describes the work of those committees and representatives and explains their roles and responsibilities in the workplace.

Where the word "should" is used, the action referred to is a recommended practice, not a legal requirement.

About Joint Health and Safety Committees and Representatives

Committees

What is a joint health and safety committee?

A joint health and safety committee is composed of people who represent the workers and the employer. Together, they are committed to improving health and safety conditions in the workplace. Committees identify potential health and safety problems and bring them to the employer's attention. As well, members must be kept informed of health and safety developments in the workplace.

Why are joint health and safety committees necessary?

Committees are necessary to provide greater protection against workplace injury and illness, and greater protection means reduced human suffering, work-related accidents and work-related deaths. Committees often involve people from all levels of an organization. This co-operative involvement ensures that everything possible is done to eliminate health and safety hazards.

What is the joint health and safety committee's role?

The committee is an advisory body that helps to stimulate awareness of safety issues, recognizes workplace risks and then deals with these risks. To achieve its goal, the committee holds meetings and conducts regular workplace inspections.

Which workplaces need joint health and safety committees?

Workplaces that require committees include:

- any workplace that regularly employs 20 or more workers* [section 9(2)(a)];

- construction projects on which 20 or more workers* are regularly employed and which are expected to last three months or more [sections 9(2)(a) and 9(1)(a)];

- any workplace (other than a construction project) to which a regulation concerning a designated substance applies, even if fewer than 20 workers are regularly employed [section 9(2)(c)];

- any workplace where an order has been issued under section 33 of the *Act*, even if fewer than 20 workers are regularly employed [section 9(2)(b)]; and

- any workplace where the Minister of Labour orders a committee to be established [section 9(3)].

Sometimes, an alternative to a committee may be allowed, if it provides comparable benefits to worker health and safety [section 9(4)]. The Minister of Labour may also, under certain circumstances, permit a single committee to be established for more than one workplace [sections 9(3.1) and 9(5)]. For more information on this option, a local Ministry of Labour office should be contacted.

How large should a joint health and safety committee be?

In workplaces with less than 50 workers, the *Act* requires the committee to have a minimum of two members [section 9(6)(a)]. Where there are 50 or more workers, the committee must have at least four members [section 9(6)(b)]. At least half the members on a committee must represent workers [section 9(7)], with the balance representing management [section 9(9)]. Larger committees in larger workplaces can be required by regulations under the *Act* [section 70(2)10.].

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* *"Worker" does not include a participant in community participation (workfare) under the* Ontario Works Act, 1997 *or a volunteer worker.*

Whenever possible, committees should represent the health and safety concerns of the entire workplace. For example, if a workplace has a plant, office, laboratory and warehouse, each of these areas should be represented on the committee.

What about workplaces with fewer than 20 workers?

Usually, workplaces with more than five but fewer than 20 workers are not required to have a joint health and safety committee.

Instead, workers must select, from among themselves, one person to be a **health and safety representative** [section 8(1)].

Workplaces with five or fewer workers are exempt from the requirements in section 9 of the *Act*, which regulate joint health and safety committees, and from the requirement for a health and safety representative [section 8(1)].

What if there is a dispute about the establishment or function of a joint health and safety committee?

The Ministry of Labour should be alerted to any dispute about the establishment, function or composition of a committee. Upon investigation, the minister may issue an order to an employer to improve the function of a committee [sections 9(3), 9(5) and 9(39)].

What is a worker trades committee? When is one required?

Construction projects that are expected to last three months or longer and employ 50 or more workers must establish a worker trades committee in addition to a joint health and safety committee [section 10(1)].

Members of the worker trades committee must represent workers employed in each of the trades at the workplace [section 10(2)]. These members must be selected by workers employed in the trades they represent or, if a trade union represents workers, by the union [section 10(3)].

The committee's primary responsibility is to inform the joint health and safety committee of any health and safety concerns that trade workers might have [section 10(4)].

Members

How are committee members selected?

At least half the committee members must be worker members: non-management employees at the workplace who are selected by the workers. In a unionized workplace, the worker members must be chosen by the trade union or unions representing employees [sections 9(7) and 9(8)].

The employer chooses members as well (employer members) [section 9(9)]. It is recommended that the employer select representatives by giving consideration to their knowledge of operations and to their duties and responsibilities as they relate to work procedures and safety.

Ex-officio members are not recommended. When dealing with a specific issue, however, the committee may wish to invite persons with specialized knowledge or experience to attend as advisers or observers.

Do committee members need special training or certification?

Some committees require at least two members—one representing the employer and one representing workers—to be chosen for special training [section 9(12)]. Among its functions under section 4 of the *Workplace Safety and Insurance Act*, Ontario's Workplace Safety and Insurance Board (WSIB) sets the standards for training and certifies committee members who complete approved training programs. **Certified health and safety committee members** play a key role on the committee and have specific authority and responsibilities. Certified members are not required for committees at workplaces that regularly employ less than 20 workers or at projects

that regularly employ less than 50 workers [O. Reg. 385/96 as amended by O. Reg. 131/98].

Other specialized training is available through workplace organizations and outside agencies. Although it is beneficial for all members to have adequate training, it is not a requirement under the *Act*.

How long is a committee member's term of office?

A term of at least one year is recommended. Where there is more than one worker member and one employer member, terms should be staggered to allow continuity. Vacancies should be filled as quickly as possible.

Do committee members get paid for their time?

Members are entitled to take time to attend committee meetings, inspections and investigations, as well as to accompany ministry inspectors investigating an accident, potential hazard or a work refusal [sections 9(34) and 54(5)]. Members will be paid at either their regular rate or, where applicable (i.e., when duties take them beyond their usual hours of work), their premium rate of pay [section 9(35)].

Are committee members entitled to paid preparation time?

Each member will be paid for one hour of preparation time before every committee meeting. If it becomes apparent that one hour is not sufficient, the committee can decide that more paid preparation time is required [section 9(34)(a)].

Meetings

How often should the joint health and safety committee meet?

Committee members are required to meet at the workplace at least once every three months. More frequent meetings may be necessary, however, particularly in industries where the work involves hazardous substances or procedures [section 9(33)].

Who chairs the meeting?

Committee meetings must be co-chaired by two members. One of the co-chairs is chosen by the members who represent workers, the other by members who represent the employer [section 9(11)]. It is good practice to alternate the chairing of each meeting between the two chairs, although the committee may find other, more appropriate procedures.

How is an agenda prepared?

An agenda should be prepared by the co-chairs and distributed one week in advance of the meeting date. Members who wish to have items added to the agenda should give chairpersons ample notice.

How are committee members informed of upcoming meetings?

Meeting dates should be established on a pre-set schedule or at the conclusion of each committee meeting. This date will be recorded in the minutes of the meeting. A copy of the minutes should be distributed to members a few days after the meeting. The dates of upcoming meetings should also be recorded at the top of each agenda.

Is a quorum needed to hold a meeting?

Every meeting must have members present who represent the employees and the employer. Beyond that, the committee can determine its own rules for a quorum at meetings.

Must the minutes be recorded? What should the minutes include?

Minutes of each meeting must be recorded and available for review by a Ministry of Labour inspector [section 9(22)]. Minutes should contain details of all matters discussed, as well as a full description of problems and their resolution or any action deemed necessary. Minutes should identify members by title and not by name. (Members' names should be used only for attendance purposes.)

Minutes should be signed by the co-chairpersons and posted in the workplace within one week of the meeting.

Health and Safety Representatives

What is a health and safety representative?

Workplaces with more than five workers and no joint health and safety committee must have a health and safety representative [section 8(1)]. Like joint health and safety committee members, the representative is committed to improving health and safety conditions in the workplace.

The health and safety representative is selected by workers at the workplace or, where the workplace is unionized, by the trade union [section 8(5)]. The representative does not require special training or certification and, like committee members, is entitled to take paid time to attend inspections and investigations [section 8(15)].

Roles and Responsibilities

Committees

What are the committee's principal functions?

The committee has four principal functions: to identify potential hazards, to evaluate these potential hazards, to recommend corrective action and to follow up on implemented recommendations. To carry out its functions, the committee is required to hold meetings [section 9(33)] and carry out regular inspections of the workplace [sections 9(26), 9(27) and 9(28)].

In some cases, committees must also participate in the development of assessment reports and control-program reports required under the designated substance regulations.

Generally speaking, however, all committee members should be available to receive employee concerns, complaints and recommendations; to discuss problems and recommend solutions; and to provide input into existing and proposed health and safety programs.

How often must workplace inspections be carried out?

Regular inspections help to identify hazards and prevent accidents. The workplace must be inspected at least once a month, unless a different schedule of inspections is ordered by the Ministry of Labour [section 9(26)]. In cases where the workplace is too large or where parts are shut down on a seasonal basis, the committee should establish a monthly inspection schedule that ensures the entire workplace will be inspected at least once a year [section 9(27)].

Who carries out workplace inspections?

Committee members who represent workers must select someone in their group to inspect the workplace [section 9(23)]. If possible, this person should be a certified member [section 9(24)]. Where the committee has been established by an order of the Minister of Labour, under subsection 9(3.1), the committee members may designate a worker who is not on the committee to do the inspection. When a real or potential hazard is discovered, it must be reported to the committee [section 9(30)].

Do certified members have added responsibilities?

Because certified members receive special training in workplace health and safety, they are given added responsibilities. For example, certified employer and employee representatives can, under certain circumstances, act together and order the employer to stop work that is dangerous to a worker [section 45(4)].

Health and Safety Representatives

Does a health and safety representative have different responsibilities from a committee member?

Generally speaking, a health and safety representative has the same responsibilities and powers as a joint committee member. These include:

- identifying workplace hazards [section 8(10)];
- inspecting the workplace at least once a month [section 8(6)];
- being consulted about workplace testing [section 8(11)];
- making recommendations to the employer [section 8(10)]; and

- investigating work refusals [section 43(4)] and serious accidents [section 8(14)].

Employer

What are the employer's responsibilities regarding joint health and safety committees?

The employer must provide a location for meetings [section 25(2)(e)] and choose a committee member or members [section 9(9)].

Other employer responsibilities include informing the committee of any work-related accidents involving injury, death or occupational illness [section 52], and providing the committee with the results of any reports relating to health and safety in the workplace [section 25(2)(l)].

Must an employer act on committee recommendations?

The employer must provide a written response to committee recommendations within 21 days [section 9(20)]. If the recommendations are accepted, a timetable for action must be outlined and provided to the committee [section 9(21)]. If an employer decides against acting on the committee's recommendations, reasons must be given in writing [section 9(21)].

Ministry of Labour Inspectors

What is the role of Ministry of Labour inspectors?

Ministry of Labour inspectors uphold and enforce the *Act*. They inspect the workplace and investigate potentially hazardous situations, accidents and work refusals. An inspector may issue orders where there is a contravention of the *Act*, and may provide advice and mediation where there are disputes between workplace parties.

What contact will committee members and health and safety representatives have with the inspector?

A committee member or the health and safety representative must be offered a chance to accompany the inspector on all inspections and investigations [section 54(3)]. When orders are issued by the inspector, a copy of the orders should be given to the committee or representative [section 57(10)]. Inspectors are entitled to review the minutes of committee meetings [section 9(22)], and are expected to do so. Inspectors may attend committee meetings when invited by members.

General Procedures

Committee Members and Health and Safety Representatives

How does the committee or health and safety representative deal with worker complaints?

A worker must report any hazard or contravention of the *Act* to the employer or supervisor [sections 28(1)(c) and 28(1)(d)]. If the matter is not resolved, a worker should then refer it to a member of the committee or to a representative.

When such matters are referred to a committee member, the member should:

- ask a first-line supervisor, plant safety officer or person with designated responsibility in the area to take part in resolving the problem;
- have this request noted at the next committee meeting and recorded in the minutes; and
- notify the worker who reported the concern of a decision or recommendation made by the committee.

If a worker complaint cannot be resolved, either of the co-chairpersons should inform the employer. If the employer is unable to resolve the issue, either the employer or the worker could contact a Ministry of Labour inspector, who will review the situation and render a decision.

When such matters are referred to a representative, he or she should:

- ask a first-line supervisor, plant safety officer or person with designated responsibility in the area to take part in resolving the problem; and

- notify the worker who reported the concern once a decision or recommendation has been made.

If a worker complaint cannot be resolved, the representative should inform the employer. If the employer is unable to resolve the issue, either the employer or the worker could contact a Ministry of Labour inspector, who will review the situation and render a decision.

What should the committee or health and safety representative do in the event of a work refusal?

The representative or a committee member who represents employees must be present during the investigation of a work refusal [section 43(4)]. This investigation is most often concluded by the worker's supervisor.

If the issue is not resolved, the employer, the worker or a committee member/representative must notify a Ministry of Labour inspector [section 43(6)]. The worker member/representative, the employer or employer member, and the worker must be consulted by the inspector who conducts the investigation [section 43(7)].

What should the committee or health and safety representative do in the event of an injury or death?

Worker members of the committee must designate one or more worker members to investigate any incident in which a person is killed or critically injured [section 9(31)]. The committee members [section 9(31)] or representative [section 8(14)] has the right to inspect the place where the incident occurred as well as any relevant machine, device or thing.

Following the investigation, all findings must be reported to the committee and to the Ministry of Labour [sections 8(14) and 9(31)]. The committee [section 9(18)(b)] or representative [section 8(10)] have the power to evaluate the situation and recommend actions to prevent a similar incident in the future.

What sort of information can the committee or health and safety representative expect to obtain?

The committee [section 9(18)(d)] or representative [section 8(11)(c)] can expect to obtain information regarding hazardous materials, processes or equipment. As well, the employer must share any knowledge of health and safety practices, tests and standards in the industry [sections 9(18)(d)(ii), 9(18)(e) and 25(2)(l)].

The employer must report lost-time injuries caused by accident, explosion or fire at the workplace, and must report any occupational illnesses of which he or she has knowledge [section 52].

Under the regulations for designated substances, the employer must provide each member of the committee or the representative with a copy of the assessment and control-program reports. As well, the committee or representative should receive reports from the physician examining the health of workers who are under a medical surveillance program required by each regulation. The employer must provide the committee or representative with results of tests on both airborne concentrations of the substance and worker exposure to it.

The Workplace Safety and Insurance Board, at the request of the committee or representative, is required to send an annual summary of data relating to the number of fatalities, lost workday cases, workdays lost, non-fatal cases requiring medical care (but not involving lost workdays) and incidence of occupational illnesses [section 12].

What assistance can the committee or health and safety representative expect from the employer?*

The *Act* places a general duty on an employer to assist the functioning of the committee and the representative [section 25(2)(e)]. More specific responsibilities include:

- upon the request of the committee [section 9(18)(d)(i)] or representative [section 8(11)(c)(i)], provide information regarding the identification of potential or existing hazards involving materials, processes or equipment;

- upon request, inform the committee [section 9(18)(d)] or representative [section 8(11)(c)] of changes in work procedures, of the introduction of new machinery or processes, of the use of new chemicals and other materials and of the availability of new safety equipment;

- provide the committee or representative with a copy of all orders or reports issued to the employer by an inspector of the Ministry of Labour [section 57(10)];

- provide a worker member of the committee or a representative with the opportunity to accompany a Ministry of Labour inspector on the physical inspection of the workplace [section 54(3)];

- afford a worker member of the committee [section 9(26)] or a representative [section 8(6)] the right to inspect the physical condition of the workplace at least once a month, and provide required information and assistance [sections 9(29) and 8(9)]; and

- provide the information required under the designated substances regulations where they apply to the workplace.

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* *When acting as the representative of the employer, a supervisor assumes legal responsibilities of the employer.*

It is an offence for an employer to knowingly hinder or interfere with, or to give false information to, the joint health and safety committee or to a committee member or a health and safety representative who is in the process of performing his or her duties under the *Act*.

What assistance can the committee or health and safety representative expect from workers?

Workers are expected to provide information and assistance as may be required by a committee member or representative conducting an inspection or investigation. A worker must not interfere or knowingly provide a committee member or representative with false information.

What are the committee's and the health and safety representative's responsibilities regarding confidential information?

Committee members and representatives are responsible for maintaining rules of confidentiality, except where disclosure of information is specifically required by the *Act* or by another law [section 63(1)].

In this regard, committee members or representatives must not disclose any secret manufacturing process or trade information; any information about any workplace tests or inquiries conducted under the *Act* or regulations; or the name of any person from whom information is received. Information obtained from medical examinations and tests may be disclosed only in a manner that does not identify anyone [section 63(1)(f)].

Appendix A

Sections 8, 9, 10 and 11 of the *Occupational Health and Safety Act*

8. (1) At a project or other workplace where no committee is required under section 9 and where the number of workers regularly exceeds five, the constructor or employer shall cause the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

(2) If no health and safety representative is required under subsection (1) and no committee is required under section 9 for a workplace, the Minister may, by order in writing, require a constructor or employer to cause the workers to select one or more health and safety representatives from among the workers at the workplace or part thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representatives.

(3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of the functions of a health and safety representative.

(4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in subsection 9 (5).

(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the workplace, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

(6) Unless otherwise required by the regulations or by an order by an inspector, a health and safety representative shall inspect the physical condition of the workplace at least once a month.

(7) If it is not practical to inspect the workplace at least once a month, the health and safety representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

(8) The inspection required by subsection (7) shall be undertaken in accordance with a schedule agreed upon by the constructor or employer and the health and safety representative.

(9) The constructor, employer and workers shall provide a health and safety representative with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

(10) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his or her findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

(11) A health and safety representative has the power,

(a) to obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety;

(b) to be consulted about, and be present at the beginning of, testing referred to in clause (a) conducted in or about the workplace if the representative believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid; and

(c) to obtain information from the constructor or employer respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

(12) A constructor or employer who receives written recommendations from a health and safety representative shall respond in writing within twenty-one days.

(13) A response of a constructor or employer under subsection (12) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.

(14) Where a person is killed or critically injured at a workplace from any cause, the health and safety representative may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings in writing to a Director.

(15) A health and safety representative is entitled to take such time from work as is necessary to carry out his or her duties under subsections (6) and (14) and the time so spent shall be deemed to be work time for which the representative shall be paid by his or her employer at the representative's regular or premium rate as may be proper.

(16) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the

constructor or the employer and the workers, has, in addition to his or her functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a health and safety representative by this section. R.S.O. 1990, c. O.1, s. 8.

9. (1) Subject to subsection (3), this section does not apply,

(a) to a constructor at a project at which work is expected to last less than three months; or

(b) to a prescribed employer or workplace or class of employers or workplaces.

(2) A joint health and safety committee is required,

(a) at a workplace at which twenty or more workers are regularly employed;

(b) at a workplace with respect to which an order to an employer is in effect under section 33; or

(c) at a workplace, other than a construction project where fewer than twenty workers are regularly employed, with respect to which a regulation concerning designated substances applies.

(3) Despite subsections (1) and (2), the Minister may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a workplace or a part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established. R.S.O. 1990, c. O.1, s. 9 (1-3).

(3.1) Despite subsections (1) and (2), the Minister may, by order in writing, permit a constructor or an employer to establish and maintain one joint health and safety committee for more than one workplace or parts thereof, and may, in the order, provide for the

composition, practice and procedure of any committee so established. 1994, c. 27, s. 120 (1).

(3.2) In an order under subsection (3.1), the Minister may,

(a) provide that the members of a committee who represent workers may designate a worker at a workplace who is not a member of the committee to inspect the physical condition of the workplace under subsection 9 (23) and to exercise a committee member's rights and responsibilities under clause 43 (4)(a) and subsections 43 (7), (11) and (12); and

(b) require the employer to provide training to the worker to enable the worker to adequately perform the tasks or exercise the rights and responsibilities delegated by the committee. 2001, c. 9, Sched. I, s. 3 (3).

(3.3) If a worker is designated under clause (3.2)(a), the following apply:

1. The designated worker shall comply with this section as if the worker were a committee member while exercising a committee member's rights and responsibilities.

2. Subsections 9 (35) and 43 (13), section 55, clauses 62 (5)(a) and (b) and subsection 65 (1) apply to the designated worker as if the worker were a committee member while the worker exercises a committee member's rights and responsibilities.

3. The worker does not become a member of the committee as a result of the designation. 2001, c. 9, Sched. I, s. 3 (3).

(4) The constructor or employer shall cause a joint health and safety committee to be established and maintained at the workplace unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate was, on the 1st day of October, 1979, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section. R.S.O. 1990, c. O.1, s. 9 (4); 1993, c. 27, Sched.

(5) In exercising the power conferred by subsection (3) or (3.1), the Minister shall consider,

(a) the nature of the work being done;

(b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a workplace;

(c) the frequency of illness or injury in the workplace or in the industry of which the constructor or employer is a part;

(d) the existence of health and safety programs and procedures in the workplace and the effectiveness thereof; and

(e) such other matters as the Minister considers advisable. R.S.O. 1990, c. O.1, s. 9 (5); 1994, c. 27, s. 120 (2).

(6) A committee shall consist of,

(a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or

(b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed.

(7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.

(8) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions.

(9) The constructor or employer shall select the remaining members of a committee from among persons who exercise managerial functions for the constructor or employer and, to the extent possible, who do so at the workplace.

(10) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.

(11) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers and the other of whom shall be selected by the members who exercise managerial functions.

(12) Unless otherwise prescribed, a constructor or employer shall ensure that at least one member of the committee representing the constructor or employer and at least one member representing workers are certified members.

(13) Subsection (12) does not apply with respect to a project where fewer than fifty workers are regularly employed or that is expected to last less than three months.

(14) If no member representing workers is a certified member, the workers or the trade unions who selected the members representing workers shall select from among them one or more who are to become certified.

(15) If there is more than one certified member representing workers, the workers or the trade unions who selected the members representing workers shall designate one or more certified members who then become solely entitled to exercise the rights and required to perform the duties under this *Act* of a certified member representing workers.

(16) If there is more than one certified member representing the constructor or employer, the constructor or employer shall designate one or more of them who then become solely entitled to exercise the rights and required to perform the duties under this *Act* of a certified member representing a constructor or an employer.

(17) If a certified member resigns or is unable to act, the constructor or employer shall, within a reasonable time, take all steps necessary to ensure that the requirement set out in subsection (12) is met.

(18) It is the function of a committee and it has power to,

(a) identify situations that may be a source of danger or hazard to workers;

(b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;

(c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers;

(d) obtain information from the constructor or employer respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge;

(e) obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and

(f) be consulted about, and have a designated member representing workers be present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

(19) The members of the committee who represent workers shall designate one of them who is entitled to be present at the beginning of testing described in clause (18)(f).

(20) A constructor or employer who receives written recommendations from a committee shall respond in writing within twenty-one days.

(21) A response of a constructor or employer under subsection (20) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.

(22) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

(23) Subject to subsection (24), the members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace.

(24) If possible, the member designated under subsection (23) shall be a certified member.

(25) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.

(26) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (23) shall inspect the physical condition of the workplace at least once a month.

(27) If it is not practical to inspect the workplace at least once a month, the member designated under subsection (23) shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

(28) The inspection required by subsection (27) shall be undertaken in accordance with a schedule established by the committee.

(29) The constructor, employer and the workers shall provide a member designated under subsection (23) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

(30) The member shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time.

(31) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those members may, subject to subsection 51 (2),

inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee.

(32) A constructor or an employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

(33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister.

(34) A member of a committee is entitled to,

(a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;

(b) such time as is necessary to attend meetings of the committee; and

(c) such time as is necessary to carry out the member's duties under subsections (26), (27) and (31).

(35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (6-35).

(36) A member of a committee shall be deemed to be at work while the member is fulfilling the requirements for becoming certified by the Workplace Safety and Insurance Board and the member's employer shall pay the member for the time spent at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (36); 1998, c. 8, s. 50 (1).

(37) Subsection (36) does not apply with respect to workers who are paid by the Workplace Safety and Insurance Board for the time spent fulfilling the requirements for becoming certified. R.S.O. 1990, c. O.1, s. 9 (37); 1998, c. 8, s. 50 (2).

(38) Any committee of a like nature to a committee established under this section in existence in a workplace under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section.

(39) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by a constructor or an employer, the dispute shall be decided by the Minister after consulting the constructor or the employer and the workers or the trade union or trade unions representing the workers. R.S.O. 1990, c. O.1, s. 9 (38, 39).

10. (1) If a committee is required at a project, other than a project where fewer than fifty workers are regularly employed or that is expected to last less than three months, the committee shall establish a worker trades committee for the project.

(2) The members of a worker trades committee shall represent workers employed in each of the trades at the workplace.

(3) The members of a worker trades committee shall be selected by the workers employed in the trades the members are to represent or, if a trade union represents the workers, by the trade union.

(4) It is the function of a worker trades committee to inform the committee at the workplace of the health and safety concerns of the workers employed in the trades at the workplace.

(5) Subject to subsection (6), a member of a worker trades committee is entitled to such time from work as is necessary to attend meetings of the worker trades committee and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the member's regular or premium rate as may be proper.

(6) The committee for a workplace shall determine the maximum amount of time for which members of a worker trades committee for the workplace are entitled to be paid under subsection (5) for each meeting of the worker trades committee. R.S.O. 1990, c. O.1, s. 10.

11. (1) The constructor or employer at a workplace shall consult a health and safety representative or the committee with respect to proposed testing strategies for investigating industrial hygiene at the workplace.

(2) The constructor or employer shall provide information to a health and safety representative or the committee concerning testing strategies to be used to investigate industrial hygiene at the workplace.

(3) A health and safety representative or a designated committee member representing workers at a workplace is entitled to be present at the beginning of testing conducted with respect to industrial hygiene at the workplace if the representative or member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

(4) The committee members representing workers shall designate one of them for the purpose of subsection (3). R.S.O. 1990, c. O.1, s. 11.

Appendix B

Regulations made under the *Occupational Health and Safety Act,* Revised Statutes of Ontario, 1990, Chapter O.1 as amended.

June 1, 2002

A. Safety Regulations

Construction Projects:	O. Reg. 213/91, as amended by O. Reg. 631/94, O. Reg. 143/99, O. Reg. 571/99, O. Reg. 145/00, and O. Reg. 527/00.
Industrial Establishments:	R.R.O. 1990, Reg. 851, as amended by O. Reg. 516/92, O. Reg. 630/94, O. Reg. 230/95, O. Reg. 450/97, O. Reg. 144/99, O. Reg. 284/99, O. Reg. 528/00 and O. Reg. 488/01.
Mines and Mining Plants:	R.R.O. 1990, Reg. 854, as amended by O. Reg. 583/91, O. Reg. 584/91, O. Reg. 171/92, O. Reg. 384/92, O. Reg. 571/92, O. Reg. 693/92, O. Reg. 60/94, O. Reg. 779/94, O. Reg. 68/96, O. Reg. 272/97, O. Reg. 236/99, O. Reg. 486/99, O. Reg. 174/01 and O. Reg. 251/01.
Window Cleaning:	R.R.O. 1990, Reg. 859, as amended by O. Reg. 523/92.
Critical Injury Defined:	R.R.O. 1990, Reg. 834.
Training Requirements for Certain Skill Sets and Trades:	O. Reg. 572/99, as amended by O. Reg. 42/02.
Diving Operations:	O. Reg. 629/94.
Firefighters-Protective Equipment:	O. Reg. 714/94, as amended by O. Reg. 449/97 and O. Reg. 80/02.
Health Care and Residential Facilities:	O. Reg. 67/93 as amended by O. Reg. 142/99.
Oil and Gas-Offshore:	R.R.O. 1990, Reg. 855.
Roll-Over Protective Structures:	R.R.O. 1990, Reg. 856.
Teachers:	R.R.O. 1990, Reg. 857.
University Academics and Teaching Assistants:	R.R.O. 1990, Reg. 858.

B. Designated Substances

Acrylonitrile:	R.R.O. 1990, Reg. 835, as amended by O. Reg. 507/92.
Arsenic:	R.R.O. 1990, Reg. 836, as amended by O. Reg. 508/92.
Asbestos:	R.R.O. 1990, Reg. 837, as amended by O. Reg. 509/92, O. Reg. 598/94 and O. Reg. 386/00.

Asbestos on Construction Projects and in Buildings and Repair Operations:	R.R.O. 1990, Reg. 838, as amended by O. Reg. 510/92.
Benzene:	R.R.O. 1990, Reg. 839, as amended by O. Reg. 511/92 and O. Reg. 387/00.
Coke Oven Emissions:	R.R.O. 1990, Reg. 840, as amended by O. Reg. 512/92.
Ethylene Oxide:	R.R.O. 1990, Reg. 841, as amended by O. Reg. 515/92.
Isocyanates:	R.R.O. 1990, Reg. 842, as amended by O. Reg. 518/92.
Lead:	R.R.O. 1990, Reg. 843, as amended by O. Reg. 519/92 and O. Reg. 389/00.
Mercury:	R.R.O. 1990, Reg. 844, as amended by O. Reg. 520/92 and O. Reg. 390/00.
Silica:	R.R.O. 1990, Reg. 845, as amended by O. Reg. 521/92 and O. Reg. 391/00.
Vinyl Chloride:	R.R.O. 1990, Reg. 846, as amended by O. Reg. 522/92 and O. Reg. 392/00.

C. General

Biological or Chemical Agents, Control of Exposure to:	R.R.O. 1990, Reg. 833, as amended by O. Reg. 513/92, O. Reg. 597/94 and O. Reg. 388/00.
Hazardous Materials Inventories:	R.R.O. 1990, Reg. 850, revoked by O. Reg. 397/93.
Workplace Hazardous Materials Information System:	R.R.O. 1990, Reg. 860, as amended by O. Reg. 36/93.

D. Hazardous Physical Agents

X-Ray Safety:	R.R.O. 1990, Reg. 861.

E. Regulations that Directly Affect/Impact the *Act*

Training Programs:	O. Reg. 780/94.
Unilateral Work Stoppage:	O. Reg. 243/95.
Inventory of Agents or Combinations of Agents for the Purpose of Section 34 of the *Act*:	R.R.O. 1990, Reg. 852, as amended by O. Reg. 517/92.
Joint Health and Safety Committees-Exemption from Requirements:	O. Reg. 385/96, as amended by O. Reg. 131/98.

NOTE:

For a complete reference to the Regulations made under the *Occupational Health and Safety Act*, please see the Table of Regulations which is published in print form in *The Ontario Gazette* every January and July, and is published on the e-Laws website [http://www.e-laws.gov.on.ca] under Reference Tables. The website edition is frequently updated.

Appendix C

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Oshawa L1J 5Y1
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*1-800-263-1195
Fax (905) 433-9843

Barrie
114 Worsley St, Ste 201
L4M 1M1
(705) 722-6642
*1-800-461-4383
Fax (705) 726-3101

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1110 Stellar Drive, Unit 102
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EASTERN REGION

Ottawa West
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K2C 3T2
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Fax (613) 727-2900

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*1-800-267-1916
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Kingston
Beechgrove Complex
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*1-800-267-0915
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Robinson Place (MNR Bldg.)
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3rd Fl South Tower
K9J 8M5
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Fax (905) 577-1324

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*1-800-265-5140
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Construction Health and Safety Program - (416) 326-2439

Industrial Health and Safety Program - (416) 326-2445

Professional and Specialized Services - (416) 326-2443

Fax (416) 326-7761

Mining Health and Safety Program
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Material Testing Laboratory
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Radiation Protection Service
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Fax (416) 235-5926

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* Toll-Free Number [Note: Many of these "1-800" numbers are accessible only within the area code of the relevant office.]

For inquiries please contact the Ministry of Labour office nearest to you. Consult the blue pages in your local telephone directory for additional information.